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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,140	01/09/2004	Yasushi Fujinami	275927US6CONT	7496
22850	7590	12/29/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER ADEGEYE, OLUWASEUN	
			ART UNIT 2621	PAPER NUMBER
			NOTIFICATION DATE 12/29/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/754,140	<b>Applicant(s)</b> FUJINAMI ET AL.	
	<b>Examiner</b> OLUWASEUN A. ADEGEYE	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01/09/2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 - 87 is/are pending in the application.
- 4a) Of the above claim(s) 1 - 15, 20 - 27, 32 - 39, 44 - 51, 56 - 63, 68 - 75 and 80 - 87 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16 - 19, 28 - 31, 40 - 43, 52 - 55, 64 - 67 and 76 - 79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/09/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 09/10/2008 with respect to claims 16, 28, 40, 52, 64 and 76 have been fully considered but they are not persuasive.

In re page 11, applicants disclose that the '232 patent fails to disclose characteristic point information including a number of streams used by a program identification information of each stream, and attribute information of each stream corresponding to each identification information, and slot information of each stream, a format of the slot information corresponding to a stream type.

In response, the examiner respectfully disagrees. The '232 clearly discloses characteristic point information including a number of streams used by a program (see column 56, lines 34 – 35 and lines 64 – 65. The above cited column clearly discloses a field for indicating the number of data files on the disc), identification information of each stream (see column 55, lines 43 – 48. The above cited column clearly discloses a file identifier for each file), and attribute information of each stream corresponding to each identification information (see column 55, line 66 - column 56, line 20. The above cited column clearly discloses video attributes as well as audio attributes for each stream), and slot information of each stream, a format of the slot information corresponding to a stream type (column 57, lines 1 – 19. The above cited column clearly discloses slot information of each stream also see column 59, lines 39 – 42 and, column 60, lines 11 - 13).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 16- 18, 28 - 30, 40 - 42, 52 - 54, 64 – 66 and 76 – 78 are rejected under 35 U.S.C. 102(e) as being anticipated by Yogeshwar et al (US 6,026,232).

As to **claim 16**, Yogeshwar discloses a processing apparatus, comprising:

an encoder (50, 70) configured to encode video and/or audio signals to generate stream files; (see column 8, lines 28 – 31, column 9, lines 16 – 25 and column 10, line 66 – column 11, line 1);

a processor configured to generate characteristic point information including a number of streams used by a program (see column 56, lines 34 – 35 and lines 64 – 65), identification information of each stream (see column 55, lines 43 - 48), and attribute information of each stream corresponding to each identification information (see column 55, line 66 - column 56, line 20), and slot information of each stream, a format of the slot information corresponding to a stream type (see column 56, lines 36 – 39) and column 57, lines 1 – 19. The above cited column clearly discloses slot information of each stream also see column 59, lines 39 – 42 and, column 60, lines 11 - 13), the characteristic point information being included in a program information file (940)

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corresponding to each stream file and being used to access characteristic points when reproducing the stream files (see column 55, lines 23 – 42 and column 60, lines 11 - 13); and

a recording unit (52) configured to record the stream files and corresponding program information files containing the characteristic point information separately on different areas of a recording medium, the stream files being recorded in a first area of the recording medium (942) and the program information files being recorded in a second area of the recording medium (940) (see fig. 42 and 43 and column 60, lines 33 – 50) .

As to **claim 28**, this claim is similar to claim 16 only in that claim 16 is an apparatus claim whereas claim 28 is a method claim. Thus method claim 28 is analyzed as previously discussed with respect to claim 16.

As to **claim 40**, this claim is similar to claim 28 only in that the limitation “computer program encoded on a computer readable medium” is additionally recited.

Yogeshwar discloses computer software on a computer readable medium (see column 12, lines 47 – 57 and column 67, lines 45 - 66).

As to **claim 52**, this claim is similar to claim 16 only in that the limitation “a controller configured to control reproduction of said stream files based on the characteristic point information reproduced from the corresponding program information files” and a “reproducing unit” is additionally recited.

Yogeshwar discloses a controller configured to control reproduction of said stream files based on the plural types of said characteristic point information reproduced from the corresponding program information files (see column 67, lines 22 – 26).

Yogeshwar also discloses a reproducing unit (see column 67, lines 9 – 34).

As to **claim 64**, this claim is similar to claim 52 only in that claim 52 is an apparatus claim whereas claim 64 is a method claim. Thus method claim 64 is analyzed as previously discussed with respect to claim 52.

As to **claim 76**, this claim is similar to claim 64 only in that the limitation “computer program encoded on a computer readable medium” is additionally recited.

Yogeshwar discloses a computer software on a computer readable medium (see column 12, lines 47 – 57 and column 67, lines 45 - 66).

As to **claim 17**, Yogeshwar discloses the processing apparatus according to claim 16, wherein said characteristic point information include at least one of a start point, an end point, and a scene change point of a program (see column 21, lines 13 – 30).

As to **claim 18**, Yogeshwar discloses the processing apparatus according to claim 17, wherein said characteristic point information further include an I-picture position of the program (see column 60, lines 20 – 32).

Grounds for rejecting claim 17 apply for **claims 29, 41, 53 and 77** in its entirety.

Grounds for rejecting claim 18 apply for **claims 30, 42, 54 and 78** in its entirety.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19, 31, 43, 51, 55, 67 and 79, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yogeshwar et al in view of Kroon (US 6,438,083 B1).

As to **claim 19**, Yogeshwar discloses the processing apparatus according to claim 17, but does not disclose wherein said characteristic point information further include a silent point of the program.

Kroon discloses wherein said characteristic point information further include a silent point of the program (see column 11, line 60 – column 12, line 6 and column 12, line 65 – column 13, line 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have added the silent point of a program taught by Kroon to the apparatus of Yogeshwar so that information can be recorded at a faster rate than at the rate at which the information is supplied (see column 3, lines 10 – 15).

Grounds for rejecting claim 19 apply for claims **31, 43, 51, 55, 67 and 79** in its entirety.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **OLUWASEUN A. ADEGEYE** whose telephone number is (571)270-1711. The examiner can normally be reached on Monday - Friday 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/20/2008

/Marsha D. Banks-Harold/

Supervisory Patent Examiner, Art Unit 2621

/O.A/